

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

HOMER ANTHONY PETTY,	)	
	)	
Plaintiff,	)	
	)	No. 2:12-cv-324
v.	)	
	)	<i>Mattice /Lee</i>
COMMISSIONER OF SOCIAL SECURITY,	)	
	)	
Defendant.	)	

**ORDER**

Before the Court is Plaintiff's motion for attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d) [Doc. 23]. Plaintiff requests attorney's fees at a rate of \$185.00 per hour and requests that the fees be paid directly to his counsel. Plaintiff has submitted an affidavit with an itemized record of the time spent by his counsel on this case [Doc. 23 at Page ID # 125-26], as well as a fee agreement between Plaintiff and his counsel [Doc. 23 at Page ID #124]. Defendant has not filed a response. Under E.D. Tenn. L. R. 7.2, this Court deems the failure to respond to a motion as a waiver of any opposition to the requested relief. As public funds are involved in this instance, however, the Court will deem the failure to respond as a waiver only to Plaintiff's entitlement to fees, and not as a waiver to the amount of fees or the person payable.

Defendant is hereby **ORDERED** to respond to Plaintiff's motion within **five (5)** days of entry of this order, specifically to address: (1) the hourly rate requested by Plaintiff and whether it is an appropriate rate under *Cook v. Barnhart*, 246 F. Supp. 2d 908, 910 (E.D. Tenn. 2003) and its progeny, and (2) whether Plaintiff's request that fees be paid directly to his counsel is appropriate in this case.

In addition, Defendant is on **NOTICE** that Defendant is expected to respond to all such motions in the future, even if only to notify the Court that Defendant has no objection to the relief requested in the motion.

SO ORDERED.

ENTER:

*s/ Susan K. Lee*

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SUSAN K. LEE  
UNITED STATES MAGISTRATE JUDGE